

Title 12: CONSERVATION
Chapter 1: SOIL AND WATER CONSERVATION DISTRICTS

Table of Contents

Part 1. SOIL AND WATER CONSERVATION.....	
Subchapter 1. GENERAL PROVISIONS.....	3
Section 1. SHORT TITLE.....	3
Section 2. POLICY.....	3
Section 3. DEFINITIONS.....	3
Section 4. LIMITATION OF AUTHORITY.....	4
Section 5. COOPERATION OF STATE AGENCIES.....	4
Section 6. POWERS OF DISTRICTS AND SUPERVISORS.....	4
Section 6-A. FARMLAND REGISTRATION.....	6
Section 7. DISCONTINUANCE OF DISTRICTS.....	7
Subchapter 2. SOIL AND WATER CONSERVATION	7
Section 51. MEMBERSHIP; SEAL; RULES (REPEALED).....	7
Section 51-A. ADVISORY COUNCIL ESTABLISHED.....	7
Section 51-B. ASSISTANCE FROM DEPARTMENT.....	8
Section 52. LEGAL SERVICES; EXECUTIVE DIRECTOR; DELEGATION OF POWERS (REPEALED).....	8
Section 53. OFFICERS; TERMS; QUORUM; COMPENSATION; RECORDS (REPEALED).....	8
Section 54. POWERS AND DUTIES.....	9
Section 54-A. BUDGET.....	10
Section 55. EXEMPTIONS.....	10
Subchapter 3. SUPERVISORS.....	10
Section 101. NOMINATIONS, ELECTIONS AND APPOINTMENTS OF SUPERVISORS.....	11
Section 102. DUTIES OF SUPERVISORS AND DISTRICT EMPLOYEES.....	12
Section 103. ASSOCIATE SUPERVISORS.....	12
Subchapter 4. FORMATION OF DISTRICTS.....	13
Section 151. PETITION FOR CREATION.....	13
Section 152. HEARING; DETERMINATION.....	13
Section 153. REFERENDUM.....	14
Section 154. EXPENSES; REGULATIONS; INFORMALITIES.....	14
Section 155. RESULTS OF REFERENDUM; DETERMINATION.....	14
Section 156. APPOINTMENT OF GOVERNING BODY; APPLICATION TO SECRETARY OF STATE.....	15
Section 157. SUBSEQUENT PETITIONS.....	16
Section 158. PETITION FOR ADDITIONAL TERRITORY.....	16
Subchapter 5. FINANCES.....	16
Section 201. ALLOCATION OF FUNDS.....	16
Subchapter 6. FUND TO ENCOURAGE LOCAL SOIL AND WATER CONSERVATION PROJECTS.....	17

Section 205. FINDINGS AND PURPOSES.....	17
Section 206. ESTABLISHMENT OF FUND.....	18

Maine Revised Statutes
Title 12: CONSERVATION
Chapter 1: SOIL AND WATER CONSERVATION DISTRICTS

Subchapter 1: GENERAL PROVISIONS

§1. SHORT TITLE

This chapter may be known and cited as the "Soil and Water Conservation Districts Law." [1993, c. 1, §32 (COR).]

SECTION HISTORY

1965, c. 190, §1 (AMD). RR 1993, c. 1, §32 (COR).

§2. POLICY

Conservation of soil and water resources may involve adjustments in land and water use and the development, improvement and protection of these resources under various combinations of use. It is declared to be the policy of the Legislature to provide for and encourage the optimal use of the State's agricultural resources, to insure the availability of appropriate soil and water resources for the production of food and other renewable resources, to provide for the conservation of the soil and soil and water resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources and maintain the economic base for the State's natural resource industries, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this State. [1985, c. 482, §3 (AMD).]

SECTION HISTORY

1985, c. 482, §3 (AMD).

§3. DEFINITIONS

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following words shall have the following meanings. [1979, c. 541, Pt. A, §114 (AMD).]

1. Commission.

[1995, c. 532, §4 (RP) .]

1-A. Department. "Department" means the Department of Agriculture, Conservation and Forestry.

[1995, c. 532, §5 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

2. District or soil and water conservation district. "District" or "soil and water conservation district" means an agency of the State, and a body corporate and politic, organized in accordance with this chapter, for the purposes, with the powers, and subject to the restrictions set forth.

[1965, c. 190, §2 (AMD) .]

3. Due notice. "Due notice" means notice published at least twice, with an interval of 6 days, in a newspaper or other publication of general circulation within the appropriate area, as well as notice through the United States mail, in the name of the district, directed to all affected property owners as their names shall appear on the tax records, except that in the event that land occupiers shall be domiciled in states or territories

other than the State of Maine, then such land occupiers shall be notified by registered mail at their last known address. At any hearing held pursuant to such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

4. Land occupier. "Land occupier" or "occupier of land" includes any person, firm or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under this chapter, whether as owner, lessee, renter, tenant or otherwise.

[1983, c. 99, §1 (AMD) .]

5. Supervisor. "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with this chapter.

[1969, c. 477, §1 (AMD) .]

SECTION HISTORY

1965, c. 190, §2 (AMD). 1969, c. 477, §1 (AMD). 1979, c. 541, §A114 (AMD). 1983, c. 99, §1 (AMD). 1995, c. 532, §§4,5 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§4. LIMITATION OF AUTHORITY

The powers and duties conferred upon the Department of Agriculture, Conservation and Forestry or the soil and water conservation districts under this chapter shall not infringe upon or impair in any way the rights of any owner of riparian lands located upon, or any rights heretofore or hereafter granted by the Legislature to any person, firm, corporation, association, public or quasi-public body to use or take the water in or from, any lake, pond, river, stream, brook or any other body of water located wholly or partly in the State of Maine. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1965, c. 190, §3 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§5. COOPERATION OF STATE AGENCIES

Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors. Public lands used for research purposes shall comply with this section only to the extent that it does not interfere with existing research work.

§6. POWERS OF DISTRICTS AND SUPERVISORS

A soil and water conservation district organized under this chapter shall constitute an agency of the State and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this chapter: [1965, c. 190, §4 (AMD).]

1. Preventive and control measures; flood prevention. To carry out preventive and control measures and works of improvement for flood prevention, or the conservation, development, utilization and disposal of water within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

2. Agreements. To cooperate, or enter into agreements with, and within the limits of appropriations or other funds duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations and works of improvement for flood prevention and the conservation, development, utilization and disposal of water within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter;

3. Options, purchase, sale, etc. of property. To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest or devise, any property, real or personal, or rights or interests therein, after consultation with town, city and county officials; all such property shall be exempt from taxation by the State or any subdivisions or agencies thereof; to maintain, administer and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease or otherwise dispose of any of its real and personal property or interests therein in furtherance of the purposes and provisions of this chapter;

4. Equipment and machinery made available. To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, and such other equipment or material, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, and for flood prevention or the conservation, development, utilization and disposal of water;

5. Construct and maintain structures. To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter;

6. Plans. To develop comprehensive plans for the conservation of soil resources, for the control and prevention of soil erosion, and for flood prevention or the conservation, development, utilization and disposal of water within the district, which plans shall specify in such detail as may be possible the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

7. Agent for federal and state agencies; accept gifts; contracts. To act as agent for the United States or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation or administration of any project for soil conservation, erosion control, erosion prevention, flood prevention or for the conservation, development, utilization and disposal of water within its boundaries; to accept donations, gifts and contributions in money, services, materials or otherwise from the United States or any of its agencies; or from this State or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations; and to enter into contracts or negotiations with any and all federal agencies having responsibility for the distribution of surplus war or other materials suitable for utilization in soil conservation or water conservation projects for the use thereof; to enter into contracts and negotiate with any agency of the United States Government in any plan related to soil conservation, flood prevention, or the conservation, development, utilization and disposal of water;

8. Sue and be sued; seal; borrow money. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to borrow money and to execute promissory notes, bonds and other evidences of indebtedness in connection therewith; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this chapter, to carry into effect its purposes and powers;

9. Supervisors may require contributions. As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring such benefits, and may require land occupiers to enter into such agreements as to the permanent use of such lands as will tend to prevent or control erosion thereon;

10. Cooperate with other districts. To cooperate with any other district organized under this chapter in the exercise of any or all powers conferred in this chapter.

Provisions with respect to the acquisition, operation or disposition of property by other public bodies shall not be applicable to a district organized hereunder unless the Legislature shall specifically so state.

SECTION HISTORY

1965, c. 190, §4 (AMD).

§6-A. FARMLAND REGISTRATION

In addition to the powers assigned in section 6, a soil and water conservation district shall review applications for the registration of farmland pursuant to Title 7, chapter 2-B. The district shall, by majority vote of the supervisors, certify whether the land described in the application: [1989, c. 478, §2 (NEW).]

1. Acreage. Consists of 5 or more contiguous acres;

[1989, c. 478, §2 (NEW) .]

2. Farm products. Includes only land used in the production of farm products, as defined in Title 7, section 52, subsection 3-A, in one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under Title 7, chapter 2-B;

[2011, c. 2, §7 (COR) .]

3. Relationship to boundary established. Is within 50 feet of any property boundary and that the application includes a depiction of the distance between any area producing farm products under consideration and any property boundary within 50 feet that is sufficient to determine the impact of Title 7, section 56, subsection 1-A on abutting land; and

[2011, c. 2, §7 (COR) .]

4. Renewal. For farmland registered within the time frame provided under section 53-B, subsection 1, continues to meet the eligibility requirements of Title 7, section 53-A that were in effect at the time the land was registered.

[2011, c. 608, §18 (NEW) .]

A district shall complete its review under this section within 60 days of receiving an application.

[2011, c. 608, §18 (AMD).]

SECTION HISTORY

1989, c. 478, §2 (NEW). 2007, c. 649, §6 (AMD). RR 2011, c. 2, §7 (COR). 2011, c. 608, §18 (AMD).

§7. DISCONTINUANCE OF DISTRICTS

At any time after 5 years after the organization of a district under this chapter, any 25 occupiers of land lying within the boundaries of such district may file a petition with the State Department of Agriculture, Conservation and Forestry requesting that the operations of the district be terminated and the existence of the district discontinued. Upon receipt of the petition for the discontinuance of a district, the Department of Agriculture, Conservation and Forestry shall conduct such public hearings and referenda as may be necessary to assist it in the consideration thereof. In conducting such hearings and referenda, the Department of Agriculture, Conservation and Forestry shall adhere substantially to the same procedures and give weight to each of the considerations set forth in section 101, as were followed in the organization of such districts. The Department of Agriculture, Conservation and Forestry may not determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district. [1965, c. 190, §5 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

The State Department of Agriculture, Conservation and Forestry shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with this chapter, more often than once in 5 years. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1965, c. 190, §§5,6 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

Subchapter 2: SOIL AND WATER CONSERVATION

§51. MEMBERSHIP; SEAL; RULES

(REPEALED)

SECTION HISTORY

1965, c. 190, §7 (AMD). 1967, c. 280, (AMD). 1967, c. 494, §10 (AMD). 1967, c. 544, §20 (AMD). 1969, c. 477, §1 (AMD). 1973, c. 460, §18 (AMD). 1973, c. 513, §22 (AMD). 1975, c. 172, (RPR). 1975, c. 770, §61 (AMD). 1983, c. 99, §2 (AMD). 1983, c. 812, §71 (AMD). 1987, c. 578, (AMD). 1989, c. 503, §B54 (AMD). 1991, c. 837, §A28 (AMD). 1995, c. 532, §7 (RP).

§51-A. ADVISORY COUNCIL ESTABLISHED

The State Conservation District Advisory Council, as established by Title 5, section 12004-I, subsection 68-A, advises the commissioner on matters affecting the operations and responsibilities of soil and water conservation districts. The State Conservation District Advisory Council consists of one representative from each of the soil and water conservation districts. The president and vice-president of the Maine Association of Conservation Districts and the State Conservationist of the United States Department of Agriculture, Natural Resources Conservation Service shall serve as ex officio, nonvoting members. The president and vice-president of the Maine Association of Conservation Districts shall also serve as chair and vice-chair. The advisory council shall: [1995, c. 532, §8 (NEW).]

1. Formulation of budget. Consult with the commissioner regarding the formulation of that part of the department's budget that pertains to the operations of the soil and water conservation districts;

[1995, c. 532, §8 (NEW) .]

2. Procedures for election of supervisors. Advise the Department of Agriculture, Conservation and Forestry on the appointment of soil and water conservation district supervisors and on procedures for the election of supervisors;

[1995, c. 532, §8 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

3. Consult in areas of expertise. Regularly consult with the Department of Agriculture, Conservation and Forestry on matters in which the soil and water conservation districts have individual or collective expertise, including agriculture, forestry, water quality, economic and community development and the protection of landowner rights;

[1995, c. 532, §8 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

4. Distribution of grant money. Advise the department on procedures for the distribution of federal, state or private grant money that passes through the department and is intended for the work of soil and water conservation districts; and

[1995, c. 532, §8 (NEW) .]

5. Conservation districts. Advise the department regarding the formation or discontinuance of soil and water conservation districts.

[1995, c. 532, §8 (NEW) .]

SECTION HISTORY

1995, c. 532, §8 (NEW). 2011, c. 657, Pt. W, §5 (REV).

§51-B. ASSISTANCE FROM DEPARTMENT

The department shall assist the advisory council and individual soil and water conservation districts to further constructive working relationships with other natural resource agencies of State Government.

[1995, c. 532, §9 (NEW).]

SECTION HISTORY

1995, c. 532, §9 (NEW).

§52. LEGAL SERVICES; EXECUTIVE DIRECTOR; DELEGATION OF POWERS (REPEALED)

SECTION HISTORY

1969, c. 477, §§1,2 (AMD). 1971, c. 594, §§17-A (AMD). 1973, c. 537, §16 (AMD). 1979, c. 732, §19 (AMD). 1991, c. 837, §A29 (AMD). 1995, c. 532, §10 (RP).

§53. OFFICERS; TERMS; QUORUM; COMPENSATION; RECORDS (REPEALED)

SECTION HISTORY

1969, c. 477, §1 (AMD). 1983, c. 99, §3 (AMD). 1983, c. 812, §72 (AMD). 1991, c. 837, §A30 (AMD). 1995, c. 532, §11 (RP).

§54. POWERS AND DUTIES

In addition to the duties and powers conferred upon the State Department of Agriculture, Conservation and Forestry, it shall have the following duties and powers: [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

1. Assistance. To offer such assistance as may be appropriate to the supervisors of soil and water conservation districts in the carrying out of any of their powers and programs, and to enter into such agreements as may be appropriate with such districts, with land occupiers and with other state and federal agencies;

[1965, c. 190, §9 (AMD) .]

2. Information to supervisors. To keep the supervisors of each of the several districts organized under this chapter informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them;

3. Coordination. To coordinate the programs of the several districts so far as this may be done by advice and consultation;

4. United States and state agencies. To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts, and in carrying out the functions of the Department of Agriculture, Conservation and Forestry under this chapter; to accept grants, services and materials from any source;

[1995, c. 532, §§12, 17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

5. Encourage districts. To disseminate information throughout the State concerning the activities and programs of the districts, and to encourage the formation of such districts in areas where their organization is desirable;

6. Control measures. To carry out preventive and control measures and works of improvement for the control and prevention of soil erosion, flood prevention, or the conservation, development, utilization and disposal of water;

7. Surveys. To conduct surveys, investigations and research relating to the character of soil erosion and floodwater and sediment damages and to the conservation, development, utilization and disposal of water and the preventive and control measures and works of improvement needed, to publish the results of such surveys, investigations and research, and to disseminate information concerning such preventive and control measures and works of improvement;

8. Options; purchases. In addition to any powers conferred by Title 7, section 19, to obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its real or personal property or interests therein, in furtherance of the purpose and provisions of this chapter, including the conveyance, with or without consideration, of lands or interests therein to soil and water conservation districts for use in carrying out their authorized purposes;

[1995, c. 532, §13 (AMD) .]

9. Structures. To construct, improve, operate and maintain such structures as may be necessary or convenient for the prevention of floodwater and sediment damages and for the conservation, development and utilization of the water impounded by such structures for irrigation, recreation, wildlife, municipal and industrial uses;

10. Fund. To have supervision and control of the Soil and Water Conservation Districts Fund which shall consist of all moneys appropriated thereto, and any moneys received as donations, repayments of loans or from other sources. The Department of Agriculture, Conservation and Forestry may use such fund for carrying out any of its authorized functions, for furnishing financial and other assistance to districts, for making allocations of funds to districts, and for making loans to districts under such terms and conditions as the Department of Agriculture, Conservation and Forestry may prescribe. Any balance in this fund, except moneys appropriated by the State, shall not lapse but shall be carried forward from year to year to be expended for the purposes set forth in this subchapter;

[1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

11. Sponsor. To serve as a sponsoring or cosponsoring local organization, within the meaning of the term as used in Public Law 566, as amended, Watershed Protection and Flood Prevention Act, and to serve as a sponsoring or cosponsoring local organization where a watershed is situated wholly or in part within the geographical boundaries of any unorganized territory or territories.

[1979, c. 541, Pt. A, §115 (AMD) .]

12. Entry on lands and structures. The Department of Agriculture, Conservation and Forestry or its authorized agents shall have the right to enter upon any private or public lands for the purpose of inspecting dams and appurtenant structures. The Department of Agriculture, Conservation and Forestry shall seek the permission of the landowner, prior to exercising this right and shall not exercise this right until a reasonable effort has been made to obtain said permission.

[1973, c. 103, §1 (NEW); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

SECTION HISTORY

1965, c. 190, §§8-10 (AMD). 1967, c. 494, §11 (AMD). 1969, c. 477, §1 (AMD). 1973, c. 103, §1 (AMD). 1979, c. 541, §A115 (AMD). 1995, c. 532, §§12,13,17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§54-A. BUDGET

That part of the department's budget that pertains to the operations of the soil and water conservation districts must be separately identified as a major budget area within the department's budget. [1995, c. 532, §14 (NEW).]

SECTION HISTORY

1995, c. 532, §14 (NEW).

§55. EXEMPTIONS

Exempted from this subchapter are all dams and projects licensed by or subject to the jurisdiction of the Federal Power Commission under Part I of the Federal Power Act. [1973, c. 103, §2 (NEW).]

SECTION HISTORY

1973, c. 103, §2 (NEW).

Subchapter 3: SUPERVISORS

§101. NOMINATIONS, ELECTIONS AND APPOINTMENTS OF SUPERVISORS

1. Elections of supervisors. The governing body of each district consists of a board of 5 supervisors. Three of the supervisors must be elected. Petitions may be filed to nominate candidates for election as supervisors of each district. When the district is first created, nominating petitions must be filed with, and the election must be conducted by, the department. After the creation of the district, nominating petitions must be filed with, and the election must be conducted by, each district. Nominating petitions must be subscribed by 25 or more registered voters residing within the district, as certified and sworn by the person submitting the petition and subject to such verification as the department or district may require. Registered voters may sign petitions to nominate more than one candidate for supervisor. The department or district shall give notice of the time for making nominations and the time and manner in which the election will occur. Registered voters residing within the district are eligible to vote in an election. When a district is first created, the 3 nominated candidates who receive the largest number of votes in the election are the elected supervisors of the district. Terms of elected supervisors are staggered, with the candidate receiving the largest number of votes initially elected to a 3-year term, the candidate receiving the 2nd largest number of votes initially elected to a 2-year term and the candidate receiving the 3rd largest number of votes initially elected to a one-year term. Thereafter, the term of office of each elected supervisor is 3 years. Following an election, the results must be published in a newspaper of general circulation in the district, and the names of those elected must be certified by the commissioner. The commissioner may adopt rules or prescribe procedures governing elections, which may include elections by mail or other procedures the commissioner finds to be fair and efficient. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

[1999, c. 138, §1 (NEW) .]

2. Appointments of supervisors. In each district, 2 supervisors must be appointed by the commissioner, taking into consideration the various interests of the district in agriculture, forestry, wildlife, recreation and community and regional development. The appointees must be qualified by training and experience to perform their duties. The terms of the appointed supervisors must be staggered, with the first appointed supervisor initially appointed to a one-year term and the 2nd appointed supervisor initially appointed to a 2-year term. Thereafter, the term of office of each appointed supervisor is 3 years.

[1999, c. 138, §1 (NEW) .]

3. Tenure. A supervisor shall continue to hold office until the supervisor's successor has been elected or appointed and has qualified pursuant to subsection 2.

[1999, c. 138, §1 (NEW) .]

4. Vacancies. A vacancy for the unexpired term of an appointed supervisor must be filled through appointment by the commissioner as described in this section. A vacancy for the unexpired term of an elected supervisor may be temporarily filled by the commissioner through appointment of an associate supervisor designated with voting authority in accordance with section 103. This appointment is effective only until the district holds an election as necessitated by the expiration of the term of any elected supervisor.

[1999, c. 138, §1 (NEW) .]

SECTION HISTORY

1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 1999, c. 138, §1 (RPR) .

§102. DUTIES OF SUPERVISORS AND DISTRICT EMPLOYEES

1. Supervisors. A majority of the supervisors constitute a quorum, and the vote of a majority of the quorum present constitutes an action by the board. The supervisors shall elect one of their members to be chair and may, from time to time, change such designation. As determined by the board, and to the extent funds are available for this purpose, a supervisor may receive reasonable compensation for services and other expenses, including travel necessarily incurred in the discharge of the supervisor's duties.

[1999, c. 138, §2 (NEW) .]

2. Employees and others. The supervisors may employ a secretary and such other employees and contractors as they require in the performance of their duties. The supervisors may call upon the Attorney General for legal services. The supervisors shall require the execution of surety bonds for all employees and officers who are entrusted with funds or valuable property.

[1999, c. 138, §2 (NEW) .]

3. Delegation. Subject to their appropriate supervision, the supervisors may delegate the work of the district to one or more of their members of the district or to their employees or agents as they determine necessary for the conduct of the district's business.

[1999, c. 138, §2 (NEW) .]

4. Records. The supervisors shall provide for the keeping of accurate records of their actions, proceedings and other business of the district. The supervisors shall furnish to the commissioner any records or information that the commissioner may request concerning the performance of the district's business.

[1999, c. 138, §2 (NEW) .]

SECTION HISTORY

1965, c. 190, §§11,12 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §§15,17 (AMD). 1999, c. 138, §2 (RPR).

§103. ASSOCIATE SUPERVISORS

1. Appointment of associate supervisors. By unanimous vote, the board of supervisors of a district established according to section 102 may appoint individuals with training and experience relevant to the duties of the supervisors to serve as associate supervisors.

By unanimous vote, the board of supervisors may designate one or more of the associate supervisors to have voting authority. The board shall maintain a list of individuals designated to have voting authority and shall submit that list to the department. Employees of the district and contract providers to the district may be appointed as associate supervisors but may not be accorded this voting authority. The voting authority accorded associate supervisors is limited under subsection 2.

[1997, c. 105, §1 (NEW) .]

2. Limits on voting authority. When only 2 supervisors are present at a regularly scheduled board meeting, the chair of the meeting may appoint an associate supervisor present and with designated voting authority to serve as a supervisor for that meeting, thereby establishing a quorum. The designated associate supervisor has full voting rights of a supervisor for that meeting.

[1997, c. 105, §1 (NEW) .]

SECTION HISTORY

1997, c. 105, §1 (NEW).

Subchapter 4: FORMATION OF DISTRICTS

§151. PETITION FOR CREATION

Any 25 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Department of Agriculture, Conservation and Forestry asking that a soil and water conservation district be organized to function in the territory described in the petition. Such petition shall set forth: [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

1. Name. The proposed name of said district;

2. Need. That there is need, in the interest of the public health, safety and welfare, for a district to function in the territory described in the petition;

3. Description. A description of the territory proposed to be organized as a district;

4. Referendum. A request that the Department of Agriculture, Conservation and Forestry duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil and water conservation district in such territory; and that the Department of Agriculture, Conservation and Forestry determine that such a district be created.

[1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

Where more than one petition is filed covering parts of the same territory, the Department of Agriculture, Conservation and Forestry may consolidate all or any such petitions. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1965, c. 190, §§13,14 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§152. HEARING; DETERMINATION

Within 30 days after such a petition has been filed with the Department of Agriculture, Conservation and Forestry, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a soil and water conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall define the boundaries of such district. In making such determination and in defining such boundaries, the Department of Agriculture, Conservation and Forestry shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils in the proposed district, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may

receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other districts already organized under this chapter, and such other physical, geographical and economic factors as are relevant. The territory to be included within such boundaries need not be contiguous. If the Department of Agriculture, Conservation and Forestry shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil and water conservation district to function in the territory, or any part thereof, considered at the hearing, it shall make and record such determination and shall deny the petition. After 6 months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed, new hearings held and determinations made thereon. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1965, c. 190, §§15,15-A (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§153. REFERENDUM

After the Department of Agriculture, Conservation and Forestry has made and recorded a determination that there is need for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries is administratively practicable and feasible. To assist the Department of Agriculture, Conservation and Forestry in the determination of such administrative practicability and feasibility, it shall, within a reasonable time after entry of the finding that there is need for the organization of the proposed district, cause due notice of a referendum to be given, and hold such referendum within the proposed district. The question shall be submitted by ballots. The usual voting places available for regular elections within the district shall be available for the purposes of such referenda, and city and town officials are directed to assist in the carrying out of such referenda. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

All occupiers of lands lying within the boundaries of the territory, as determined by the State Department of Agriculture, Conservation and Forestry, and only such land occupiers, shall be eligible to vote in such referendum. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1965, c. 190, §16 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§154. EXPENSES; REGULATIONS; INFORMALITIES

The Department of Agriculture, Conservation and Forestry shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda. No informalities in the conduct thereof shall invalidate said referendum. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§155. RESULTS OF REFERENDUM; DETERMINATION

The Department of Agriculture, Conservation and Forestry shall publish the result of such referendum in a newspaper of general circulation in the territory affected and shall thereafter again consider and determine whether the operation of the district is administratively practicable and feasible. If the Department

of Agriculture, Conservation and Forestry shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the Department of Agriculture, Conservation and Forestry shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner provided. In making such determination, the Department of Agriculture, Conservation and Forestry shall give due regard and weight to the attitude of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the probable expense of carrying on erosion-control operations within such district and such other economic and social factors as may be relevant to such determination. The Department of Agriculture, Conservation and Forestry shall not have authority to determine that the operation of the proposed district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the creation of such district. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§156. APPOINTMENT OF GOVERNING BODY; APPLICATION TO SECRETARY OF STATE

If the Department of Agriculture, Conservation and Forestry shall determine that the operation of the proposed district is administratively practicable and feasible, it shall appoint 2 supervisors to act, with the 3 supervisors elected, as the governing body of the district. Such district shall be an agency of the State and a public body corporate and politic, upon the taking of the following proceedings: [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

The 2 appointed supervisors shall present to the Secretary of State an application signed by them, which shall set forth:

1. Petition. That a petition for the creation of the district was filed with the State Department of Agriculture, Conservation and Forestry, and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district; and that the Department of Agriculture, Conservation and Forestry has appointed them as supervisors;

[1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

2. Supervisors. The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office;

3. Term of office. The term of office of each of the supervisors;

4. Name of district. The name which is proposed for the district.

The application shall be subscribed and sworn to by each of the said supervisors. The application shall be accompanied by a statement by the State Department of Agriculture, Conservation and Forestry, which shall certify that a petition was filed, notice issued and hearing held; that the Department of Agriculture, Conservation and Forestry did duly determine that there is need for a soil and water conservation district to function in the proposed territory and it did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast to be in favor of the creation of the district; that thereafter the Department of Agriculture, Conservation and Forestry did duly determine that the operation of the proposed district is

administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the Department of Agriculture, Conservation and Forestry. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

The Secretary of State shall file the application and statement and shall record them in an appropriate book of record in his office. When the application and statement have been made, filed and recorded, the district shall constitute an agency of the State and a public body corporate and politic. The Secretary of State shall make and issue to the said supervisors a certificate, under the seal of the State, of the due organization of the said district, and shall record a copy of such certificate with the application and statement.

SECTION HISTORY

1965, c. 190, §§17,18 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§157. SUBSEQUENT PETITIONS

After 6 months shall have expired from the date of entry of a determination by the Department of Agriculture, Conservation and Forestry that operation of a proposed district is not administratively practicable and feasible, and denial of a petition, subsequent petitions may be filed and action taken by the Department of Agriculture, Conservation and Forestry. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

§158. PETITION FOR ADDITIONAL TERRITORY

Petitions for including additional territory within an existing district may be filed with the Department of Agriculture, Conservation and Forestry, and the proceedings provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no hearing or referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote. [1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

Subchapter 5: FINANCES

§201. ALLOCATION OF FUNDS

1. Department of Agriculture, Conservation and Forestry to districts. Unless otherwise provided by law, moneys which may be under the control of the Department of Agriculture, Conservation and Forestry in the Soil and Water Conservation Districts Fund, or in any other account, shall be allocated by the State Department of Agriculture, Conservation and Forestry among the districts already organized or to be organized, in accordance with the procedure specified in subsection 2. All moneys allocated to any district by the said Department of Agriculture, Conservation and Forestry shall be available to the supervisors of such district for all administrative and other expenses of the district under this chapter.

[1969, c. 477, §1 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

2. Budget and allocations. Allocations to soil and water conservation districts shall be made on the basis of a budget submitted by each district to the Department of Agriculture, Conservation and Forestry by February 1st of each year. In making such allocations of such moneys, the Department of Agriculture, Conservation and Forestry shall retain an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with this section from time to time among newly organized districts.

[1967, c. 494, §12 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

SECTION HISTORY

1965, c. 190, §19 (AMD). 1967, c. 494, §12 (AMD). 1969, c. 477, §1 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

Subchapter 6: FUND TO ENCOURAGE LOCAL SOIL AND WATER CONSERVATION PROJECTS

§205. FINDINGS AND PURPOSES

The Legislature finds that the conservation of soil and water are essential to the continued productivity of our agricultural lands and the purity of our waters. Yet the economic realities of modern farming have led to more intensive cultivating methods which exhaust topsoil and erode croplands faster than ever before. Presently, Maine's average rate of soil loss is approximately twice the sustainable rate of erosion. Approximately 15% of the state's eroded soil finds its way into our lakes and streams, which become polluted by the fine sediments, fertilizers and pesticides they carry. Additionally, the overwhelming majority of Maine's livestock and poultry farms are unequipped to productively use or cleanly dispose of animal wastes. The improper handling of animal wastes contributes both to soil depletion and water pollution. [1983, c. 522, (NEW) .]

Conservation programs and practices initiated and encouraged by the Department of Agriculture, Conservation and Forestry, Maine's 16 soil and water conservation districts and federal conservation agencies have been demonstrably effective in reducing soil loss and implementing animal waste management plans. Resource conservation demands a continuing commitment of both financial and human resources. Many conservation practices have limited lifetimes or require annual maintenance. Changing agricultural production methods and technologies also require new cropping arrangements and new erosion control systems. [1983, c. 522, (NEW); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

Virtually all public financing for conservation practices in Maine, 98¢ of every government dollar spent, has been provided by the Federal Government, but the amount of federal spending has been steadily decreasing in constant dollars since 1972. Even under federally-funded programs, the farmer-landowner has been responsible for 25% to 100% of project costs. Because of low financial returns, many concerned farmers have been unable to set aside the money to finance their share of installation costs for conservation systems. [1983, c. 522, (NEW) .]

To continue the progress already made in soil and water conservation, State Government will need to assume a greater share of conservation spending than it has in the past. It is the intent of the Legislature that the largest portion of new funding be devoted to the development of innovative conservation projects by the soil and water conservation districts. [1983, c. 522, (NEW) .]

SECTION HISTORY

1983, c. 522, (NEW). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV) .

§206. ESTABLISHMENT OF FUND

There is established a fund to encourage local soil and water conservation projects. The fund shall consist of all moneys appropriated to it and any moneys received as donations or from other sources. Moneys in this fund shall be disbursed periodically by the Department of Agriculture, Conservation and Forestry on a competitive basis to one or more of the soil and water conservation districts for the funding of innovative soil and water conservation projects. Any balance in this fund, except moneys appropriated by the State, shall not lapse, but shall be carried forward from year to year to be expended for the purposes set forth in this subchapter. The Department of Agriculture, Conservation and Forestry shall establish by rule criteria for project submission, evaluation and selection. These criteria shall, among other factors, address priority of need, boldness of approach, program feasibility and reproducibility and verification of results. The Department of Agriculture, Conservation and Forestry may impose such conditions on the use of funds awarded as in its judgment are best suited to accomplish the purposes of this subchapter and insure that moneys awarded by the Department of Agriculture, Conservation and Forestry are properly spent by the districts. Any final decision of the Department of Agriculture, Conservation and Forestry to fund a project or to not fund a project shall constitute "final agency action" for purposes of Title 5, chapter 375, subchapter IV. The Department of Agriculture, Conservation and Forestry shall submit an annual report on the status of the Challenge Grant Program to the joint standing committees of the Legislature having jurisdiction over agriculture and audit and program review, as well as the Finance Authority of Maine for public hearing and critique. [1985, c. 481, Pt. A, §20 (AMD); 1995, c. 532, §17 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1983, c. 522, (NEW). 1985, c. 481, §A20 (AMD). 1995, c. 532, §17 (AMD). 2011, c. 657, Pt. W, §5 (REV).

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